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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/874,367	06/06/2001	Yoshiyuki Tani	740819-568	2951

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NIXON PEABODY, LLP
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EXAMINER

YOUNG, CHRISTOPHER G

ART UNIT	PAPER NUMBER .
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1756

DATE MAILED: 04/01/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

AS8

Office Action Summary

Application No.

09/874,367

Applicant(s)

Tani

Examiner

Young

Group Art Unit

1756

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE -3- MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 3/21/03
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-8 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-8 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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1. This Office action is responsive to the amendment (Paper No. 6) filed March 21, 2003 wherein claims 1-3 were amended.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over either one of Hwang or Ando et al. in combination with one of ordinary skill in the requisite art's ability.

Each of the references describes, teaches and suggests a method for making a photomask, a method of using the photomask, and the photomask per se within the metes and bounds of the document. It appears that all claimed limitations are described by the two references, with the possible exception of the alignment mark having a size equal to that of the second on wafer intended pattern. However, one of ordinary skill in the

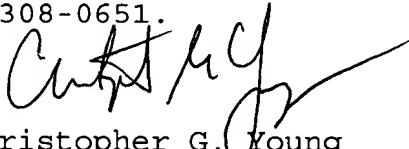
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requisite art would have found it prima facie obvious to optimize conditions on the mask and during exposure to achieve the best final product absent objective evidence of high probative value to the contrary. Furthermore, it is unclear to the Examiner how the alignment marks utilized by the references are of a different "size" than the intended wafer patterns. It is not readily clear how the term "size" specifically limits the claim so as to exclude the prior art references in the rejection of record.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Young, whose telephone number is (703) 308-2984. The examiner can normally be reached on Monday through Friday from 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Huff, can be reached on (703) 308-2464. A Fax communication that is for a non-final fax should be sent to (703) 872-9310. An after final fax should be sent to (703) 872-9311.

Any inquiry of general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0651.



Christopher G. Young
Primary Examiner
Art Unit 1756

C. Young:cdc
March 28, 2003